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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,437	05/07/2001	Masamitsu Nakaminami	0071/007001	8635

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EXAMINER

MILLER, BENA B

ART UNIT	PAPER NUMBER
3712	

DATE MAILED: 01/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/849,437	NAKAMINAMI ET AL.
	Examiner Bena Miller	Art Unit 3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 18 November 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

 1. Certified copies of the priority documents have been received.

 2. Certified copies of the priority documents have been received in Application No. _____.

 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7, 4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Matthey.

Regarding claims 1 and 7, Matthey teaches in figures 1-4 a machine tool comprising a fixed bed (1), a pair of tool posts (17 and 22; it is noted that turrets 17 and 22 are considered to be the posts), carriages (14, 19) and a headstock base (6) configured as claimed.

Regarding claims 4 and 8, Matthey further teaches that the one of the carriages are disposed on a left side and the other disposed on the right side of the fixed bed in figure 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 3, 5, 6 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthey in view of Kosho et al.

Matthey teaches in the figures the invention substantially as claimed. However, Matthey fails to teach a chip collecting opening disposed in the fixed bed between the carriages and headstock. Kosho teaches in figures 1-9 a lathe having bed body 2 formed by a box-like rear body portion 3 and a box-like front body portions 4. Box-like front body portions 4 forms a cut materials discharging space 20 as seen in figures 1 and 2. Once the materials enter space 20 the materials are discharged in discharging space 20, which is located in the rear portion of base body 2 (fig. 1; col. 6, par. 5 and 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a chip collecting opening disposed in the fixed bed between the carriages and headstock as taught by Kosho in the fixed bed of Matthey since Kosho teaches that such modification would receive cut materials which are discharged during cutting processing (col. 6, paragraph 5).

Response to Arguments

Applicant's arguments filed 11/18/02 have been fully considered but they are not persuasive. In response to applicant's argument that Matthey fails to teach that the headstock base is structured and arranged to be movable between a work piece machining position, it appears that the claim recites limitations that is not clear as to what is included as the structure. For example only, it is not clear how the headstock base is structured and arranged. What structure is included in the headstock to cause the headstock base to be movable between a work piece machining position. It

appears that the phrase "structured and arranged" recites the intended use of the headstock base. It should also be noted that it has been held that recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

In response to applicant's argument that Kosho fails to teach the chip collecting opening being disposed in the fixed bed between the respective carriages and the headstock, as broadly recited, the Kosho teaches that chip collecting opening is disposed in the fixed bed between the respective carriages and the headstock as seen in figure 1.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643. The examiner can normally be reached on Monday-Friday.

bbm
January 20, 2003


JACOB K. ACKUN
PRIMARY EXAMINER
GROUP 3700